

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP

Charles K. Verhoeven (Bar No. 170151)

2 charlesverhoeven@quinnemanuel.com

3 Melissa Baily (Bar No. 237649)

melissabaily@quinnemanuel.com

4 Lindsay Cooper (Bar No. 287125)

lindsaycooper@quinnemanuel.com

5 50 California Street, 22<sup>nd</sup> Floor

San Francisco, California 94111-4788

6 Telephone: (415) 875-6600

7 Facsimile: (415) 875-6700

8 Attorneys for GOOGLE LLC

9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN FRANCISCO DIVISION

12 GOOGLE LLC,

13 Plaintiff,

14 vs.

15 SONOS, INC.,

16 Defendant.

CASE NO. 3:20-cv-06754-WHA

**GOOGLE'S ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL  
PORTIONS OF ITS REPLY IN SUPPORT  
OF ITS MOTION FOR LEAVE TO FILE  
A SECOND AMENDED COMPLAINT**

## I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Plaintiff Google LLC (“Google”) hereby requests to file under seal portions of its Reply in Support of its Motion for Leave to File a Second Amended Complaint (“Reply”). Specifically, Google requests an order granting leave to file under seal the portions of the document listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Portions of Google’s Reply	Portions highlighted in green	Google

## II. LEGAL STANDARD

Civil Local Rule 79-5(c) provides that a party seeking to file its own documents under seal must file an administrative motion that articulates the applicable legal standard and reasons for keeping a document under seal, includes evidentiary support from a declaration where necessary, and provides a proposed order that is narrowly tailored to seal only the sealable material.

Historically, courts have recognized a “general right to inspect and copy public records and documents, including judicial records and documents.” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (citing *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 n.7 (1978)). “To seal records in connection with a ‘dispositive’ motion or a motion that ‘more than tangentially relate[s] to the merits of a case,’ ‘compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure’ are required.” *Bronson v. Samsung Elecs. Am., Inc.*, No. C 18-02300 WHA, 2019 WL 7810811, at \*1 (N.D. Cal. May 28, 2019) (quoting *Kamakana*, 447 F.3d at 1178-79). “A particularized showing of ‘good cause’ under Federal Rule of Civil Procedure 26(c), however, suffices to warrant sealing in connection with a non-dispositive motion.” *Id.*

## III. THE COURT SHOULD SEAL GOOGLE’S CONFIDENTIAL INFORMATION

Although the materials that Google seeks to seal here meet the higher “compelling reasons” standard, the Court need only consider whether these materials meet the lower “good cause” standard. Courts have repeatedly found it appropriate to seal documents that contain “business information that might harm a litigant’s competitive standing.” *Nixon*, 435 U.S. at 589-99. Good

1 cause to seal is shown when a party seeks to seal materials that “contain[ ] confidential information  
 2 about the operation of [the party’s] products and that public disclosure could harm [the party] by  
 3 disclosing confidential technical information.” *Digital Reg. of Texas, LLC v. Adobe Sys., Inc.*, No.  
 4 C 12–1971 CW, 2014 WL 6986068, at \*1 (N.D. Cal. Dec. 10, 2014). Materials that could harm a  
 5 litigant’s competitive standing may be sealed even under the “compelling reasons” standard. *See*  
 6 *e.g., Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, 2015 WL 984121, at \*2 (N.D. Cal.  
 7 Mar. 4, 2015) (information “is appropriately sealable under the ‘compelling reasons’ standard where  
 8 that information could be used to the company’s competitive disadvantage”) (citation omitted).

9       The highlighted portions of Google’s Reply contain confidential business information and  
 10 terms to confidential agreements that are not public. The public disclosure of this information would  
 11 harm Google’s competitive standing and its ability to negotiate future agreements by giving  
 12 competitors access to Google’s highly confidential business thinking and asymmetrical information  
 13 about Google’s licensing strategies to other entities. Cooper Decl. ¶ 3. Thus, Google has good  
 14 cause to keep such information under seal. A less restrictive alternative than sealing the highlighted  
 15 portions of Google’s Reply would not be sufficient because the information sought to be sealed is  
 16 Google’s proprietary and confidential business information but is necessary to the argument in  
 17 Google’s Reply. *Id.*

18       Because courts routinely seal confidential business information and terms to confidential  
 19 agreements, the Court should grant Google’s Administration Motion. *See, e.g., Elec. Arts, Inc. v.*  
 20 *U.S. Dist. Ct. (In re Elec. Arts, Inc.)*, 298 F. App’x 568, 569 (9th Cir. 2008) (sealing licensing  
 21 agreement terms); *In re Qualcomm Litig.*, No. 3:17-CV-0108-GPC-MDD, 2018 WL 6252523, at \*2  
 22 (S.D. Cal. May 9, 2018) (sealing “confidential business information” because disclosure could harm  
 23 the party “in future negotiations with existing customers, third-parties, and other entities with whom  
 24 they do business”); *Huawei Techs., Co. v. Samsung Elecs. Co.*, No. 3:16-cv-02787-WHO, Dkt. No.  
 25 446, at 19 (N.D. Cal. Jan. 30, 2019) (sealing confidential sales data because “disclosure would harm  
 26 their competitive standing by giving competitors insight they do not have”).

#### 27 **IV. CONCLUSION**

1 For the foregoing reasons, Google respectfully requests that the Court grant Google's  
2 Administrative Motion to File Portions of its Reply in Support of its Motion for Leave to File a  
3 Second Amended Complaint Under Seal.

4  
5 DATED: December 7, 2021

QUINN EMANUEL URQUHART & SULLIVAN,  
LLP

6  
7 By: /s/ Charles K. Verhoeven  
Charles K. Verhoeven (Bar No. 170151)  
charlesverhoeven@quinnemanuel.com  
8 Melissa Baily (Bar No. 237649)  
melissabaily@quinnemanuel.com  
9 50 California Street, 22<sup>nd</sup> Floor  
10 Lindsay Cooper (Bar No. 287125)  
lindsaycooper@quinnemanuel.com  
11 San Francisco, California 94111-4788  
12 Telephone: (415) 875-6600  
Facsimile: (415) 875-6700

13 Attorneys for GOOGLE LLC  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ATTESTATION**

Pursuant to the Federal Rules of Civil Procedure and Local Rule 5-1, I hereby certify that, on December 7, 2021, all counsel of record who have appeared in this case are being served with a copy of the foregoing via the Court's CM/ECF system and email.

DATED: December 7, 2021

By: /s/ Charles K. Verhoeven  
Charles K. Verhoeven